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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,307	09/10/2003	Aman Safaei	W1200-00042	5380

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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,307

Applicant(s)

SAFAEI ET AL.

Examiner

Johnna R Stimpak

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/8/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/21/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final office action upon examination of application number 10/660,307. Claims 1, 14, 24 and 33 have been amended. Claims 1-40 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Prior objections to the drawings have been withdrawn.
3. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC §101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

5. Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the

Art Unit: 3623

"progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-23 only recite an abstract idea. The recited steps of assigning unique identifiers to retailers and identifying identifiers on a map display and identifying location of and sales data for retailers on a map display displayed on a user terminal does not apply, involve use or advance the technological arts since all of the recited steps may be performed manually with or without the aid of any technology.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. In the present case, identifying on a map display displayed by a user terminal is considered nominal recitation of technology since there is no indication that the display involves or uses the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. Assigning identifiers to retailers and displaying on a map is considered useful, concrete and tangible.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-23 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft's MapPoint, as disclosed in the following two articles.

Baker, Kim et al. "Divide and Conquer". September, 1999.

"Microsoft MapPoint 2000 Delivers New Mapping and Analysis Program". From Newswire, November 1998

As per claim 1, MapPoint teaches assigning unique identifiers to a plurality of retailers, the unique identifiers indicating types of product sold by respective retailers from the plurality of retailers; and identifying on a map display displayed by a user terminal using the unique identifiers respective locations of retailers from the plurality of retailers (Baker, page 1 – the maps incorporate symbols, three-dimensional representations, colors and charts to display business data; page 3 – MapPoint identifies sales based on geographic location of the retailer using multicolored maps and grids that show locations where sales are concentrated).

As per claim 2, MapPoint teaches identifying on the map display sales data for at least one identified retailer (Baker, page 3 – MapPoint identifies sales based on geographic location of the retailer).

As per claim 3, MapPoint teaches sales data represent total sales for a selected time period of the types of product sold by the at least one identified retailer (Newswire, page 1 –

Art Unit: 3623

users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period).

As per claim 4, MapPoint teaches identifying on the map display an indication of a location of at least one retailer not selling the product (Baker, page 3, system is used to identify locations where sales are concentrated, as well as where retailers need to improve, inherently the system is identifying locations of retailers where the product is not being sold).

As per claim 5, MapPoint teaches after identifying on the map display an indication of a location of at least one retailer not selling the product, utilizing information discerned from the map display in making a retailer decision (Baker, page 4, the system is used to determine where to introduce new locations for products and retailers).

As per claim 6, MapPoint teaches identifying on the map display demographic data for a geographic region shown on the map display (Baker, page 3 bottom – page 4 – demographic data is displayed).

As per claim 7, MapPoint teaches after identifying on the map display demographic data for a geographic region shown on the map display, utilizing information discerned from the map display in making a marketing decision (Baker, page 4, displays demographic data showing concentrations of customers meeting age and income criteria used to develop new products and promotions for the specific market groups in the area).

As per claim 8, MapPoint teaches demographic data include population data (Baker, page 3, mapping software shows ethnicity data for specific areas – concentrations of high ethnic population leads to targeting specific products to those groups).

As per claim 9, MapPoint teaches demographic data include population income data (Baker, page 4, demographic data includes income criteria).

As per claim 10, MapPoint teaches identifying on the map display a street address for at least on identified retailer (Baker, page 3, mapping software shows sales penetration by specific street).

As per claim 11, MapPoint teaches automatically generating travel data representing a trip to at least on identified retailer (Baker, page 3, mapping program used to direct vehicles along the fastest routes to the retailers).

As per claim 12, MapPoint teaches travel data represent a travel route to the at least one identified retailer, travel distance, travel time, gas usage, overtime expenses or a combination thereof (Baker, page 3, mapping program used to direct vehicles along the fastest routes, this inherently includes travel time and distance).

As per claim 13, MapPoint teaches travel data represents a travel route to the at least one identified retailer, the method further comprising the steps of utilizing the travel route in determining a travel to the one or more retailers (Baker, page 3, mapping program used to direct vehicles along the fastest routes, this inherently includes travel time and distance).

As per claims 1-13, including data regarding lottery retailers, MapPoint does not explicitly teach the system being used for analysis of lottery retailers, it would have been obvious to one of ordinary skill to use MapPoint to display locations of lottery retailers since MapPoint is used to map geographic locations and demographic information for many types of retail establishments (Baker, page 3). Based on the Baker article, it is widely known that business owners must study geographic locations and demographic information to determine the best

Art Unit: 3623

places to set up new establishments and where to introduce or discontinue products. By applying the well known advantages of MapPoint to a lottery retailer, the lottery establishment will be able to determine which lottery games to introduce or discontinue which will lead to a more successful lottery business.

As per claim 14, MapPoint teaches identifying on a map display displayed by a user terminal a location of at least one lottery retailer from a plurality of lottery retailers; and identifying on the map display lottery sales data respective to the at least one lottery retailer representative of lottery sales by the at least one lottery retailer for a selected period of time. (Baker, page 3 – MapPoint identifies sales based on geographic location of the retailer using multicolored maps and grids that show locations where sales are concentrated; Newswire, page 1 – users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period).

As per claim 15, MapPoint teaches the sales data represent sales according to product type (Baker, page 3, system used to track sales penetration by location).

As per claim 16, MapPoint teaches the sales data represent total sales for the selected time period of the product sold by the respective retailers (Newswire, page 1 – users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period).

As per claim 17, MapPoint teaches utilizing information discerned from the map display in making a retailer decision (Baker, page 2 bottom – page 3 top – information is used to make business decisions).

As per claim 18, MapPoint teaches identifying on the map display an indication of a location of at least one non-product retailer (Baker, page 3, system is used to identify locations where sales are concentrated, as well as where retailers need to improve, inherently the system is identifying locations of retailers where the product is not being sold).

As per claim 19, MapPoint teaches identifying on the map display demographic data for a geographic region shown on the map display (Baker, page 3 bottom – page 4 – demographic data is displayed).

As per claim 20, MapPoint teaches the demographic data includes population (Baker, page 3, mapping software shows ethnicity data for specific areas – concentrations of high ethnic population leads to targeting specific products to those groups).

As per claim 21, MapPoint teaches demographic data include population income data (Baker, page 4, demographic data includes income criteria).

As per claim 22, MapPoint teaches utilizing demographic data information discerned from the map display in making a marketing decision (Baker, page 4, displays demographic data showing concentrations of customers meeting age and income criteria used to develop new products and promotions for the specific market groups in the area).

As per claim 23, MapPoint teaches identifying on the map display a street address for at least one identified retailer (Baker, page 3, mapping software shows sales penetration by specific street).

As per claims 14-23, including data regarding lottery retailers, MapPoint does not explicitly teach the system being used for analysis of lottery retailers, it would have been obvious to one of ordinary skill to use MapPoint to display locations of lottery retailers since MapPoint is

Art Unit: 3623

used to map geographic locations and demographic information for many types of retail establishments (Baker, page 3). Based on the Baker article, it is widely known that business owners must study geographic locations and demographic information to determine the best places to set up new establishments and where to introduce or discontinue products. By applying the well known advantages of MapPoint to a lottery retailer, the lottery establishment will be able to determine which lottery games to introduce or discontinue which will lead to a more successful lottery business.

Claims 24-32 are the computer implemented system for performing the steps of claims 1-12. Since the MapPoint system is computer implemented, the rejection as applied to claims 1-12 also applies to claims 24-32.

Claims 33-40 are the computer implemented system for performing the steps of claims 14-23. Since the MapPoint system is computer implemented, the rejection as applied to claims 14-23 also applies to claims 33-40.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shah, US 6,405,924 – inventory control system and method

Art Unit: 3623

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 571-272-6736.

The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS
5/19/05


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